

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

WEST VIRGINIA BOARD OF MEDICINE,

Petitioner,

v.

LINDA RITA BOGGS, P.A.-C.,

Respondent.

COMPLAINT AND NOTICE OF HEARING

Now comes the Petitioner, the West Virginia Board of Medicine ("Board"), and for its Complaint against Respondent, Linda Rita Boggs, P.A.-C. ("Ms. Boggs"), states as follows:

1. Ms. Boggs currently holds an active license to practice as a physician assistant in the State of West Virginia, License No. 00005, originally issued by the Board in May 1979, and Ms. Boggs' address of record with the Board is in Lenore, West Virginia.
2. On July 10, 2010, the Physician Assistant Committee of the Board referred the matter of Ms. Boggs to the Complaint Committee of the Board ("Complaint Committee").
3. On July 11, 2010, the Complaint Committee reviewed Ms. Boggs' matter including a review of an *Information* in the matter of *United States v. Augusto T. Abad, M.D.* ("Dr. Abad"); the transcript of proceedings before the Honorable John T. Copenhaver, Jr., United States District Judge in the United States District Court for the Southern District of West Virginia on February 26, 2010, in the matter of *United States v. Augusto T. Abad*; and additional information.

4. Ms. Boggs currently holds prescriptive writing privileges granted by the Board and a DEA registration, but did not prescribe controlled substances using her assigned DEA number as required, instead she used Dr. Abad's DEA number, which was not governed by the conditions and limitations that a physician assistant must follow when prescribing controlled substances.

5. In the proceedings of February 26, 2010, Dr. Abad testified that he agreed that it was illegal for Ms. Boggs to use his DEA number and that he knowingly conspired with Ms. Boggs to have Ms. Boggs use his DEA number when prescribing controlled substances, rather than Ms. Boggs using her own DEA number, as required by law.

6. The Complaint Committee began an investigation of the complaint; and in August 2010, Ms. Boggs filed a response to the Board's complaint, stating that "she honestly believed she would be able to help 'clean up' the clinic's reputation and make a positive clinic serving the community" and admitted that "her conduct at issuing prescriptions using Dr. Abad's DEA number under his direction and supervision constituted misconduct."

7. On November 7, 2010, Ms. Boggs appeared with her counsel for an informal conference with the Complaint Committee pursuant to the provisions of 11 CSR 3-10.10.

8. In November 2010, the Complaint Committee authorized further investigation regarding the allegations in the complaint, including the acquisition of a West Virginia Board of Pharmacy Report.

9. Ms. Boggs' conduct, as set forth in paragraphs No. 4 and 5, are in violation of the West Virginia Medical Practice Act and Rules of the Board pertaining to physician assistants, as set forth in W. Va. Code § 30-3-16 and 11 CSR 1B 10, including, but not limited to, the following:

- a) The commission of an offense against any provision of state law related to the practice of physician assistants, or any rule promulgated under the law, in violation of 11 CSR 1B 10.1(h)(2);
- b) The commission of any act involving moral turpitude, dishonesty or corruption, when the act directly or indirectly affects the health, welfare or safety of citizens of this State, in violation of 11 CSR 1B 10.1(h)(3);
- c) Misconduct in his or her practice as a physician assistant or performing tasks fraudulently, beyond his or her authorized scope of practice, with incompetence or with negligence on a particular occasion or negligence on repeated occasions, in violation of 11 CSR 1B 10.1(h)(5); and
- d) Prescribing a prescription drug, including any controlled substance under state or federal law, other than in good faith and a therapeutic manner in accordance with accepted medical standards, in violation of 11 CSR 1B 10.1(h)(9).

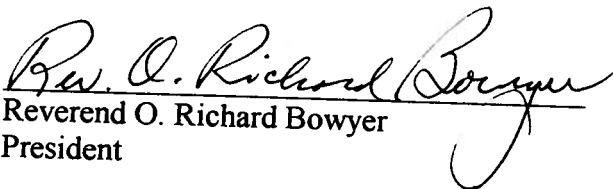
10. The continued practice by Ms. Boggs as a physician assistant in the State of West Virginia, will adversely affect the health and welfare of patients.

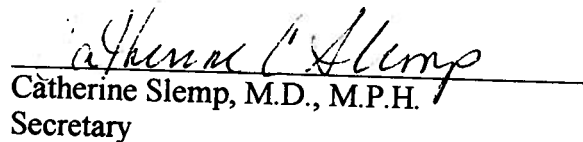
Accordingly, the Respondent, Ms. Boggs, is hereby notified that a hearing will be convened on June 1, 2011, beginning at 9:00 a.m., and shall continue thereafter from day-to-day until completed, in the offices of the West Virginia Board of Medicine, 101 Dee Drive, Suite 103, Charleston, West Virginia. The purpose of the hearing will be to determine whether disciplinary action should be taken by Petitioner Board against Ms. Boggs' license to practice as a physician assistant in the State of West Virginia. Respondent, Ms. Boggs, must be present in person, may be accompanied by an attorney if she desires, and may present witnesses or other evidence, which she may desire to present on her behalf. Failure of Ms. Boggs to serve an

Answer on Petitioner Board within thirty (30) days after service of the Complaint and Notice of Hearing upon her entitles Petitioner Board to take all of the allegations herein as confessed by Ms. Boggs, under the provisions of 11 CSR 3-11.5(s). Within fifteen (15) days of receipt of this Complaint and Notice of Hearing, Ms. Boggs shall, in writing, select as Hearing Examiner, either Jennifer Taylor, Esq., or Betty Caplan, Esq., to preside at and conduct the proceedings.

Dated this 1st day of March, 2011.

WEST VIRGINIA BOARD OF MEDICINE


Reverend O. Richard Bowyer
President


Catherine Slemp, M.D., M.P.H.
Secretary

CERTIFICATE OF SERVICE

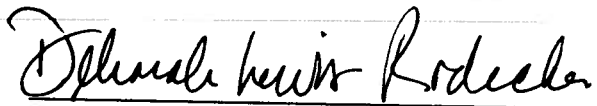
I, Deborah Lewis Rodecker, Esq., Counsel for Petitioner, the West Virginia Board of Medicine, do hereby certify that I have served the foregoing "**Complaint and Notice of Hearing**" upon Respondent, Linda Rita Boggs, P.A.-C., and her counsel of record, by depositing true and accurate copies thereof in an envelope and transmitting the same via first class U.S. Mail, with postage prepaid, this 1st day of March, 2011, addressed, as follows:

****Certified Mail****

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